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November 23rd, 2011

United States Patent & Trademark Office
Commissioner for Patents /Office of Petitions
P.O. Box 1450
Alexandra, VA 22313

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DEC 09 2011

OFFICE OF PETITIONS

RE: Patent # 6,049,910 >> Bullet Points Per Conversation on November 17th, 2011 with Petitions Attorney, Mr. Cliff Congo

Dear Mr. Congo,

I want to thank you, the Office of Petitions and the USPTO for granting my recent petition and reinstating my patent. Your decision was greatly appreciated and valuable to me and my company.

This note to you is just to present certain bullet point pieces of information to help determine if I am eligible for any refunds. Per our conversation on Thursday, November 17th, 2011, I have compiled some issue points that help determine what I see from my vantage point:

- What is the policy of USPTO if an error or innocent mistake is made during a petition process? Will the consequences be as strong as they have been for me the petitioner who allegedly did not pay his maintenance fee in full because of being \$30.00 short. There have been errors during this process and I should be refunded for all the fees I should not have had to pay. That is my opinion.
- One of the issues I would like to address again is: On Page 4 of your "Decision On Petition letter, dated April 13th, 2011, under the Analysis heading, in the last paragraph, second sentence, it states that; The record discloses that petitioner submitted a maintenance fee payment of \$1,180, that was \$30 short of the \$1,210 due at the time, on April 16th, 2008. I have enclosed a copy of the cashier's check I sent in for the amount of \$1,215.00 Why didn't I pay \$1,180.00? What made me pay \$1,215.00? Why wasn't the alleged error amount corrected in this April 13th, 2011 letter? It should have read "petitioner submitted a maintenance fee payment of 1,215.00 that was \$30.00 short. Some miscommunication errors have occurred.
- I have faxed a copy of my refunded, non-accepted maintenance fee which was paid back to me on June 6th, 2008 which is \$35.00 short from what I sent and clearly shows that the system still had my amount due as \$1,180.00. One would think it would have changed to \$1,245.00 as balance due on the record after two months had gone by.
- The letter dated March 20th, 2009, on page 2, (top of page last sentence) "See Highlighted USPTO error statement."
- I have a copy of my Reconsideration fee should a refund become due.
- I have faxed a copy of the check mailed to cover all the fees I paid, (\$1,940.00), on my last petition. \$700.00 could also be refunded.

Please let me know your determination in these matters.

Thank you,

Andre McCarter
(818) 984-6500

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OFFICE OF PETITIONS

Page 4

Patent No. 6,049,910

the Office requests that petitioner provide an accounting of his expenses throughout the period.

*Furthermore, there is a discrepancy in the record. The record discloses that petitioner submitted a maintenance fee payment of \$1,180, that was \$30 short of the \$1,210 due at the time, on April 16, 2008. Now petitioner is asserting that due to financial hardship, he was unavoidably prevented from paying the maintenance fee on or before April 18, 2008. It is not clear then how petitioner was able to pay \$1,180 on April 16, 2008. Rather, it appears that petitioner made an unintentional mistake in not paying the correct maintenance fee amount on April 16, 2008. Petitioner would need to overcome this discrepancy to support a showing of unavoidable delay.

Conclusion

Any request for reconsideration of this decision must be filed within **TWO MONTHS** of the mailing date of this decision. Any such petition for reconsideration must be accompanied by the \$400 petition fee set forth in § 1.17(f). After decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner. Accordingly, on request for reconsideration, it is extremely important that petitioner supply any and all relevant information and documentation in order to meet his burden of showing unavoidable delay. This includes statements by all persons with direct knowledge of the cause of the delay, setting forth the facts as they know them.

If on request for reconsideration, the delayed payment of the maintenance fee is not accepted, then the \$1240 maintenance fee and the \$200 surcharge set forth in §1.20(i) are subject to refund following the decision on the petition for reconsideration, or after the expiration of the time for filing such a petition for reconsideration, if none is filed. (Petitioner may request a refund of the maintenance fee and surcharge by writing to the Mail Stop 16, Director of the USPTO, P.O. Box 1450, Alexandria VA 22313-1450). A copy of the last decision rendered should accompany the request for refund).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
 Commissioner for Patents
 P.O. Box 1450
 Alexandria VA 22313-1450

Patent No. 6,049,910

Page 2

record the maintenance fee."¹ The petition "must be filed within 2 months of the action complained of", and **must be accompanied by a \$200 fee.** However, the petition may include a request that the fee be refunded if the refusal to accept and record the maintenance fee is determined to have resulted from an error by the Patent and Trademark Office.²

Here, petitioner has not submitted the \$200 fee required for consideration of the petition.

If petitioner can not offer proof that he timely filed the maintenance fee and surcharge in full prior to the expiration date of the patent, petitioner may seek to reinstate the expired patent pursuant to 37 CFR 1.378(c). A form is enclosed for petitioner's convenience.

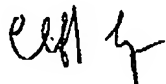
Receipt of the \$1,180 maintenance fee and \$65 surcharge, submitted with the instant petition, is acknowledged. However, until such time as patentee files a grantable petition under 37 CFR 1.377 or 37 CFR 1.378, the patent remains expired.

Further correspondence should be addressed as follows:

By mail: Mail Stop Petitions
 Commissioner for Patents
 P.O. Box 1450
 Alexandria VA 22313-1450

By FAX: (571)273-8300
 Attn: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3207.



Cliff Congo
Petitions Attorney
Office of Petitions

Enc: PTO/SB/66 (3 pages)
 Privacy Act Statement (1 page)

¹ 37 CFR 1.377(a). Emphasis added.

² See 37 CFR 1.377(b).

NOTICE TO CHECK RECIPIENT

TREASURY-FINANCIAL MANAGEMENT SERVICE (FMS FORM 3901REV.)

VENDOR NAME: ANDRE MCCARTER

VENDOR I.D. NUMBER:

ANDRE MCCART

AGENCY NAME
AND BILLING
ADDRESS:

DEPARTMENT OF COMMERCE
US PATENT AND TRADEMARK
2051 JAMIESON AVENUE
ALEXANDRIA VA22314

U.S. TREASURY REG.
FINANCIAL CENTER:

AUSTIN, TEXAS

CHECK NUMBER

2221-39899610

CHECK AMOUNT

\$\$\$1180.00

CHECK DATE

11-09-09

: 6049910: 571-272-6060 DAVY KHLOK MAILRO
NAME/NUMBER: 6049910
AMOUNT REFUNDED: 1180.00

0

AGENCY SCHEDULE NUMBER
CC20100025

AGENCY TELEPHONE NUMBER
571-272-6500

IF YOU HAVE ANY QUESTIONS REGARDING THIS REFUND,
PLEASE CONTACT KAREN CREASY AT 571-272-3208.
FOR QUESTIONS RELATING TO REFUND, CONTACT
DAVY KHLOK: 571-272-6060
MAILROOM DATE: 06/06/2008
ANDRE MCCARTER

PLEASE DIRECT ANY INQUIRIES CONCERNING THIS PAYMENT TO THE AGENCY AT THE ADDRESS (OR PHONE NUMBER) INDICATED ABOVE

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PAY Four Hundred Dollars and 00 Cents

TO
THE
ORDER
OF

COMMISSIONER FOR PATENTS
PATENT #6 049,910
RECONSIDERATION FEE
RE: ANDRE MCCARTER

Two Signatures Required Over \$20,000
VOID AFTER SIX MONTHS

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02/22/11

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*****1,940.00

*****\$1,940.00

PAY One Thousand Nine Hundred Forty Dollars and 00 Cents

TO
THE
ORDER
OF

USPTO- COMMISSIONER OF PATENTS OFFICE OF PETITIONS
RE: ANDRE MCCARTER
PATENT#: 6,049,910

Two Signatures Required Over \$20,000
VOID AFTER SIX MONTHS

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Fax Send Report

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 Model Name : SCX-4623F Series

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November 23rd, 2011

United States Patent & Trademark Office
 Commissioner for Patents Office of Petitions
 P.O. Box 1450
 Alexandria, VA 22304

RE: Patent # 6,049,910 -> Bullet Points Per Conversation on November 17th, 2011 with Patricia
 Anthony, Mr. Cliff Congo

Dear Mr. Congo,

I want to thank you, the Office of Petitions and the USPTO for granting my request petition and
 reentering my patent. Your decision was greatly appreciated and valuable to me and my company.

This note to you is just to present certain bullet point pieces of information to help determine if I am
 eligible for any refund. Per our conversation on Thursday, November 17th, 2011, I have compiled
 some issue points that help determine what I see from my vantage point:

- What is the policy of USPTO if an error or innocent mistake is made during a petition
 process? Will the consequences be as strong as they have been for the petitioner who
 allegedly did not pay his maintenance fee in full because of being \$33.00 short. There have
 been errors during this process and I should be refunded for all the fees I should not have
 had to pay. That is my opinion.
- One of the issues I would like to address again is: On Page 4 of your "Decision On Petition
 letter, dated April 13th, 2011, under the Analysis heading, in the last paragraph, second
 sentence, it states that: The record discloses that petitioner submitted a maintenance fee
 payment of \$1,184, that was \$90 short of the \$1,274 due at the time on April 16th, 2008. I
 have enclosed a copy of the examiner's check I sent to for the amount of \$1,215.00 why didn't
 I pay \$1,184.00? What made me pay \$1,215.00? Why wasn't the alleged error amount
 corrected in this April 13th, 2011 letter? It should have read "petitioner submitted a
 maintenance fee payment of \$1,215.00 that was \$90.00 short. Some miscommunication errors
 have occurred.
- I have faxed a copy of my refunded, non-accepted maintenance fee which was paid back to
 me on June 6th, 2008 which is \$33.00 short from what I sent and clearly shows that the
 system still had my amount due as \$1,184.00. One would think it would have changed to
 \$1,245.00 as to being due on the record after two months had gone by.
- The letter dated March 20th, 2009, on page 2, (top of page last sentence) "the HighLighted
 USPTO error statement."
- I have a copy of my Recommendation for should a refund because due.
- I have faxed a copy of the check mailed to cover all the fees I paid, (\$1,940.00), on my last
 petition. \$768.00 could also be

Please let me know your determination in these matters.

Thank you,

Ashley McCarter
 (713) 904-6600